



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/985,007 12/04/97 MIURA

N 2550/KIP

ROSENMAN & COLIN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

HM12/1206

EXAMINER

CHIN, C

ART UNIT

PAPER NUMBER

1641

DATE MAILED:

12/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Defective Notice of Appeal or Brief

Application No.
08/985,007

Applicant
Miura et al

Examiner
Chris Chin

Group Art Unit
1641



☐ The Notice of Appeal filed on _____ is:

☐ not acceptable because:

- ☐ it was not timely filed.
- ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
- ☐ the appeal fee received on _____ was not timely filed.
- ☐ the submitted fee of \$ _____ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$ _____.
- ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
- ☐ a Notice of Allowability, form PTO-37, was mailed by the Office on _____.

☒ The appeal brief filed on Sep 21, 2000 is NOT acceptable for the reason(s) indicated below:

☒ see attachment.

- ☐ The brief and/or brief fee is untimely. See 37 CFR 1.192.
- ☐ The statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
- ☐ The submitted brief fee of \$ _____ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$ _____.

The appeal in this application will be dismissed unless corrective action is taken. Extensions of time may be obtained under 37 CFR 1.136(a).

☐ The appeal in this application is DISMISSED because:

- ☐ The fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- ☐ The brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

☐ Because of the dismissal of the appeal, this application:

- ☐ is abandoned because there are no allowed claims.
- ☐ is being returned to the examiner for final disposition because it contains allowed claims. Prosecution on the merits is CLOSED.

Art Unit: 1641

1. Appellant's grouping of the claims is not clearly set forth. On page 4 of Appellant's brief, Appellant appears to say that the claims do not stand or fall together, i.e. "Claims 15-21, 23, and 25-27 are believed to be separately patentable". However, Appellants make statement such as those found on page 8 of Appellant's brief, i.e. "Each remaining claim is dependent directly or indirectly on claims 14, 22, and 24, and is also allowable...", that suggest the claims do in fact stand or fall together. Appellants should clarify their position on the grouping of the claims.

2. Appellants should be aware that non-entry of afterfinal amendments is not an appealable issue and thus arguments directed to whether an afterfinal amendment should be entered or not should not be presented in Appellant's brief.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Chin whose telephone number is (703) 308-3991. The examiner can normally be reached on Monday-Thursday from 9:30 am to 7:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached on (703) 305-3399. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

cchin/cc
December 4, 2000

Christopher L. Chin
CHRISTOPHER L. CHIN
PRIMARY EXAMINER
GROUP 1800-1641